

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

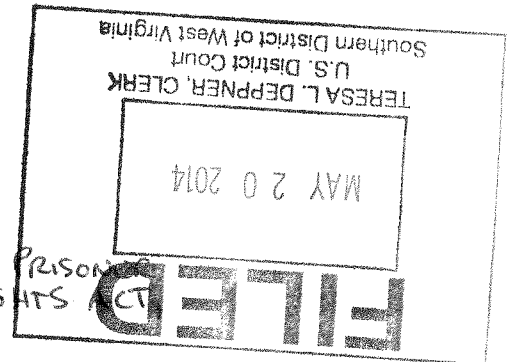
BENITO JAIMES REYNA
PLAINTIFF,

v.

CIVIL ACTION: 2:14-CV-16690

RUSSELL PERDUE, WARDEN
CMDR. NOLTE, JAMES
P.A. GHERKE, CHRISTINA
EDDIE ANDERSON, DO
DEFENDANTS/RESPONDENTS,

CIVIL ACTION AND COMPLAINT BY A PRISONER
FILED PURSUANT TO THE CIVIL RIGHTS ACT
TITLE 42 U.S.C. SECTION 1983



COMES NOW BENITO JAIMES REYNA, FED. REG. NO. 20052-171
(HEREINAFTER "PLAINTIFF"), PRO-SE PETITIONING THIS HONORABLE COURT
TO ADJUDICATE A MATTER INVOLVING THE ABOVE MENTIONED
DEFENDANTS, AND AVERS THE FOLLOWING:

JURISDICTION:

PLAINTIFF AVERES THAT THIS INCIDENT OCCURRED IN THE NORTHERN
FEDERAL DISTRICT OF WEST VIRGINIA. PLAINTIFF HAS NOT FILED
ANY LAWSUITS IN ANY OTHER JURISDICTION, STATE OR FEDERAL.

PLAINTIFF IS CURRENTLY SERVING A DETERMINATE SENTENCE AT THE
FEDERAL CORRECTIONAL INSTITUTE IN GILMER COUNTY, LOCATED AT
P.O. BOX 5000, 201 FCI LANE, GLENVILLE, WV 26351.

PLAINTIFF DID AVAIL HIMSELF OF THE PRISONER GRIEVANCE PROCEDURE
AT THIS INSTITUTION AND DID A FOLLOW-UP AT THE REGIONAL
AND CENTRAL OFFICES OF THE FEDERAL BUREAU OF PRISONS. ADDITIONALLY
THE PLAINTIFF FILED A TORT CLAIM WITH THE U.S. DEPARTMENT
OF JUSTICE, FBOP-BECKLEY CONSOLIDATED LEGAL CENTER IN
BEAVER, WV. ALL EFFORTS TO RESOLVE THIS VIA THE GRIEVANCE
PROCESS HAS FAILED, THEREFORE IT IS NOW BEFORE THIS MOST
HONORABLE COURT.

PARTIES:

PLAINTIFF: BENITO JAIMES REYNA
FED. REG. NO. 20052-171
FCI-GILMER
P.O. BOX 6000
GLENVILLE, WV 26351

DEFENDANTS: RUSSELL PERDUE, WARDEN
JAMES NOLTE, FNP/AWSA
EDDIE ANDERSON, D.O.
CHRISTINA GHERKE, P.A.

EMPLOYED AT: FCI - GILMER
201 FCI LANE
P.O. BOX 5000
GLENVILLE, WV 26351

STATEMENT OF THE CLAIM:

1. ON OR ABOUT NOVEMBER 8, 2012, I WAS INJURED WHILE PLAYING SOCCER IN THE INDOOR GYM, WHEN I GOT A SERIOUS CUT ON MY LEFT KNEE WHEN I HIT MY LEG AGAINST AN ELECTRICAL BOX PROTRUDING FROM THE WALL.
2. I WAS TAKEN TO MEDICAL WHERE P.A. GHERKE ATTENDED ME. SHE STITCHED UP MY KNEE AND TOLD ME THAT IT WOULD HEAL IN 4-6 WEEKS. I RECEIVED NO ANTI-BIOTICS, ONLY IBU PROFEN.
3. APPROXIMATELY ONE WEEK LATER MY KNEE BECAME SEVERELY INFECTED. I COULD GET NO ONE IN MEDICAL, SO I APPROACHED THE WARDEN IN THE CAFETERIA DURING THE NOON "MAINLINE" MEAL. I WAS IN PAIN AND LIMPING BADLY.
4. THE WARDEN (RUSSELL PERDUE) CALLED OVER JAMES NOLTE TO LOOK AT MY KNEE. CMDR NOLTE DIRECTED ME TO GO IMMEDIATELY TO MEDICAL WHERE HE SAID HE'D CHECK ME OUT HIMSELF.
5. WHEN I ARRIVED AT MEDICAL, INSTEAD OF CMDR NOLTE ATTENDING TO ME, P.A. GHERKE LOOKED AT MY INJURY. SHE SAID THAT IT WAS NOT INFECTED AND ORDERED ME BACK TO MY HOUSING UNIT.
6. THE FOLLOWING TUESDAY I ONCE AGAIN WENT TO SICK CALL WHEREIN P.A. GHERKE NOW PRESCRIBED AN ANTI-BIOTIC NAMED SULFAMETHOXAZOLE/TRIMETH @ 800 MG EACH.
7. I THEN ASKED P.A. GHERKE, "WHY ARE YOU NOW GIVING ME THIS ANTI-BIOTIC WHEN YOU SAID THAT MY INJURY WAS NOT INFECTED?" SHE REPLIED THAT, "THIS WAS A PREVENTATIVE MEASURE," BUT SHE COULD CLEARLY SEE THAT THE STITCHES WERE COMING OFF, AND THE INJURY WAS INFLAMMED WITH PUSS.
8. THIS LACK OF PROPER MEDICAL DIAGNOSIS AND ATTENTION HAS CAUSED ME CONTINUAL PAIN, SCARRING AND HANDICAPPED MY RANGE OF MOTION AS IT PERTAINS TO MY KNEE.
9. UTILIZING THE ADMINISTRATIVE REMEDY PROCESS, I BEGGED OVER AND OVER AT ALL LEVELS TO BE EXAMINED BY A COMPETENT MEDICAL DOCTOR WHO COULD PROPERLY DIAGNOSE AND TREAT MY INJURY PROPERLY, BUT I WAS STONE-WALLED WITH PLATITUDES, C.Y.A. STATEMENTS AND DENIALS

10. I CAME INTO THIS FEDERAL SYSTEM WHOLE AND NOW I'M LEAVING IT WITH AN INJURY AND HANDICAP THAT WILL PREVENT ME FROM BEING GAINFULLY EMPLOYED AND WILL FURTHER COST ME FINANCIALLY TO REPAIR WHAT THE MEDICAL STAFF AT FCI - GILMER FAILED TO CORRECT.
11. MY INJURIES WERE OBVIOUS... SO OBVIOUS THAT EVEN AN UNTRAINED LAYMAN, SUCH AS THE WARDEN, COULD SEE THAT I NEEDED SERIOUS MEDICAL ATTENTION, BUT NONE WAS PROPERLY FORTHCOMING.

RELIEF REQUESTED:

I AM NOW SEEKING MONETARY COMPENSATION, COLLECTIVELY AND INDIVIDUALLY FROM THE DEFENDANTS IN THE AMOUNT OF TWO HUNDRED AND FIFTY THOUSAND (\$ 250,000.00) DOLLARS.

I'M SEEKING THIS AMOUNT IN ORDER TO DEFRAY THE IMPENDING MEDICAL COSTS AS WELL AS PROVIDING A SUM OF MONIES NEEDED IN ORDER TO SUPPORT MYSELF AND MY FAMILY ONCE I AM IN THE PROCESS OF RECOVERY.

COUNSEL:

PRESENTLY THE PLAINTIFF HAS NOT CONTACTED A LAWYER TO ASSIST HIM. THIS MOTION IS BEING FILED PRO-SE. ADDITIONALLY, PLAINTIFF HAS NEVER HAD THE ASSISTANCE OF A LAWYER IN ANY OTHER LEGAL CIVIL ACTIONS.

SIGNED THIS 15 DAY OF MAY, 2014.

RESPECTFULLY SUBMITTED,

Benito James R.

BENITO JAIMES REYNA
FED. REG. NO. 20052-171
FCI - GILMER
P.O. BOX 6000
GLONVILLE, WV 26351

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED ON 5-15-14, 2014

Benito James R.

BENITO JAIMES REYNA
FED. REG. NO. 20052-171

FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

BENITO JAIMES REYNA
PLAINTIFF,

CIVIL ACTION: 2:14-16690

v.

RUSSELL PERDUE WARDEN
CMDR JAMES NOLTE
CHRISTINA GHERKE
EDDIE ANDERSON
DEFENDANTS / RESPONDENTS,

CERTIFICATE OF SERVICE

I, BENITO JAIMES REYNA, FED. REG. NO. 20052-171, APPEARING PRO-SE, HEREBY CERTIFY THAT I HAVE SERVED THE FOREGOING CIVIL ACTION AND COMPLAINT BY A PRISONER FILED PURSUANT TO 42 U.S.C. § 1983 UPON THE DEFENDANTS / RESPONDENTS BY DEPOSITING TRUE COPIES OF THE SAME IN THE MAILING SYSTEM OF FCI-GILMER, POSTAGE PREPAID, VIA U.S. MAIL, UPON THE FOLLOWING COUNSEL OF RECORD FOR THE DEFENDANTS / RESPONDENTS ON THE DATE SHOWN BELOW.

DATE MAILED: 5-15-14

MAILED TO:

U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS
BECKLEY CONSOLIDATED LEGAL CENTER
1600 INDUSTRIAL PARK ROAD
P.O. BOX 1280
BEAVER, WV 25813

RESPECTFULLY SUBMITTED,

Benito Jaimes Reyna
BENITO JAIMES REYNA
FED. REG. NO. 20052-171